

IN THE CIVIL DISTRICT COURT
OF THE FIFTEENTH JUDICIAL DISTRICT
IN AND FOR THE PARISH OF LAFAYETTE
STATE OF LOUISIANA

* * * * *

KYLE MARCEAUX

VERSUS

CIVIL DOCKET NO.

LAFAYETTE PARISH
CONSOLIDATED GOVERNMENT

20122899

* * * * *

The above-entitled case came up as a
Rule at the Lafayette Parish Courthouse,
Lafayette, Louisiana, before the
Honorable Judge, Kristian J. Earles,
on Tuesday, May 29, 2012.

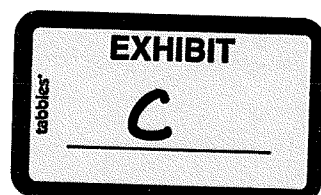
APPEARANCES:

FOR THE PLAINTIFF:

Mr. Stephen Spring
Attorney at Law
733 East Airport Avenue, Suite 104
Baton Rouge, Louisiana 70806

FOR THE DEFENDANT:

Mr. Michael Corry
Attorney at Law
413 Travis Street
Lafayette, Louisiana 70503



1 OPEN COURT
2 HONORABLE JUDGE KRISTIAN EARLES
3 TUESDAY, MAY 29, 2012
4 RULE

5
6 * * * * *

7
8 **BY THE COURT:**

9 Good morning. We can go ahead and
10 take up Marceaux versus Lafayette
11 Consolidated Government.

12 Mr. Spring.

13 **BY MR. SPRING:**

14 Good morning, Your Honor. We'd like
15 to call to the stand -- (interrupted)

16 **BY MR. CORRY:**

17 Judge, before we get started I'd like
18 to make some offerings on the record.

19 **BY THE COURT:**

20 Sure.

21 **BY MR. CORRY:**

22 Judge, Michael Corry here on behalf
23 of Lafayette Consolidated Government,
24 Police Chief Jim Craft, Major Jackie
25 Alfred, Chief Administrative Officer, Dee
26 Stanley.

27 Judge, first I would like to make
28 sure that we offer, file and introduce all
29 pleadings that were filed with the Clerk
30 on May 25th, 2012 which consists of our
31 answer to the petition for temporary
32 restraining order, the Motion to Dissolve

KATHLEEN D. MATHEWS, C.C.R.
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OFFICIAL, 15TH JUDICIAL DISTRICT COURT
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1 the temporary restraining order, the
2 Motion to Dismiss the petition for
3 preliminary injunction, request for
4 damages, attorney fees and cost for
5 wrongful issue, the opposition to the
6 temporary restraining order and
7 preliminary injunction with memorandum and
8 support, the Motion to Dismiss petition
9 for preliminary injunction and request for
10 damages, attorney fees and costs, the
11 Motion to Challenge the deficiency of the
12 bond with the incorporated memorandum, the
13 memorandum in support of the declinatory
14 exception of lack of subject matter
15 jurisdiction and dilatory exception of
16 prematurity, along with all memos,
17 exhibits and attachments, as well as the
18 Motion for instant subpoena.

19 It's my understanding that Your Honor
20 has not signed those orders because they
21 were filed late Friday, and it's also my
22 understanding that Your Honor has limited
23 the scope of this hearing to one
24 particular issue, and that those matters
25 would be dealt with at a later date if
26 need be.

27 **BY THE COURT:**

28 Let those matters be admitted into
29 the record.

30 **BY MR. SPRING:**

31 Your Honor, we'd like to offer, file
32 and introduce the entirety of the record

1 including the memorandum that was
2 submitted early this morning in addition
3 to the request for instanta subpoena, plus
4 the filings of Friday which include the
5 counts of retaliation allegations in the
6 Police Officers Bill of Rights, and I
7 believe another request for instanta
8 subpoena.

9 **BY THE COURT:**

10 Let them be admitted.

11 **BY MR. CORRY:**

12 Judge, in addition we would ask that
13 the petition for TRO with notice of
14 preliminary injunction filed by the
15 plaintiff be dismissed at this time with
16 prejudice. And the reason being, Judge,
17 is pursuant to Louisiana Code of Civil
18 Procedure Article 3604, it shall state -
19 the order shall state why the order was
20 granted without notice and hearing. The
21 order was signed, it's my understanding,
22 by another Judge in your absence, and the
23 order specifically prays for, filed by the
24 plaintiffs, that we be given a hearing
25 prior to that TRO being signed.

26 In addition, Judge, we were not given
27 proper notice because the plaintiffs, I
28 guess in an effort to call the media in,
29 hand-walked the pleadings they filed with
30 the Court and simply sent it to us via US
31 post, which means we got it the next day.
32 When we were served - when my clients, the

1 government and the three (3) individuals
2 were served, they were served with the
3 order already being signed. So pursuant
4 to the Code of Civil Procedure that's not
5 proper, we weren't given proper notice so
6 we ask that it be dismissed.

7 In addition, Judge, the pleadings
8 filed by these plaintiffs must, pursuant
9 to 360381, must support the pleading, must
10 support the petition with facts or
11 affidavits that support the allegations
12 made therein. There are no facts and the
13 affidavit that was submitted is simply a
14 verification saying, "Yeah, I read the
15 petition. I agree with it." There are no
16 facts. So for that reason the TRO should
17 not have been signed and we would ask that
18 it be dismissed as well. We would ask
19 that the order be recalled on the first
20 point as well as the second. Again, we
21 weren't given proper notice; we get served
22 with a pleading after the order is already
23 signed.

24 Judge, in addition, this Court lacks
25 subject matter jurisdiction for the
26 reasons we advise. This is an employee
27 related matter. Civil Service, pursuant
28 to the Louisiana constitution, has set
29 forth in Article 10, Section 12, that the
30 Civil Service Board is the entity that
31 hears employment related matters, which is
32 clearly what we have here. This is simply

1 an attempt to stop an investigation. They
2 claim that there's irreparable harm,
3 damage, injury or loss without any facts
4 to support that; that by having an
5 investigation go forward somehow they're
6 going to be damaged, they'll have some
7 injury or loss. That's what they're
8 trying to do here; they're trying to stop
9 an investigation where not only --
10 (interrupted)

11 **BY THE COURT:**

12 Okay, I understand.

13 **BY MR. CORRY:**

14 Let me go forward. In addition,
15 Judge, we think it's premature to have
16 this TRO before Your Honor and we would
17 ask that the order be recalled on the
18 subject matter as well as the prematurity
19 because, again, it goes to the Civil
20 Service Board. Once the Civil Service
21 Board hears an appeal, if there's even
22 discipline -- I mean, nobody knows if
23 there's going to be discipline until the
24 investigation is complete, and once it's
25 complete then whatever comes out of that
26 they have the right to appeal that to the
27 Civil Service Board, the Civil Service
28 Board has a hearing and then perhaps it's
29 appealed.

30 **BY THE COURT:**

31 Okay, I'm going to stop you because
32 you're telling me things I already know.

1 BY MR. CORRY:

2 Okay.

3 BY THE COURT:

4 I'm denying your Motion because I do
5 find having read the petition -- Judge
6 Clause signed it on my behalf after me
7 reviewing the petition. And the petition
8 does set out basic facts which if
9 substantiated could lead to irreparable
10 harm. And in our conference I informed
11 you of the specific issue which is any
12 threats or things such as that that
13 concern me. The rest of the stuff, I
14 certainly agree with you that it's up to
15 the Civil Service Board and there's appeal
16 rights based on what the Civil Service
17 Board does at their hearings. And I'm not
18 interfering with what the Civil Service
19 Board does.

20 So at this point the only thing I'm
21 here to decide is whether there's some
22 issues that would cause somebody's safety
23 to be in jeopardy.

24 BY MR. CORRY:

25 Okay. Judge, along with that, you
26 know, I've seen the news, I've seen the
27 newspaper. I haven't been provided, but
28 if they have tapes and/or transcripts and
29 they intend to use them in this hearing
30 this morning to question any of these
31 witnesses, we would ask right now that
32 Your Honor order a complete production of

1 any and all tapes taken by any of these
2 five (5) plaintiffs along with any
3 transcripts there may be so that we have
4 an opportunity to review those before
5 these officers are questioned.

6 **BY THE COURT:**

7 Do you have any tapes or recordings
8 of any of this stuff?

9 **BY MR. SPRING:**

10 I do have tapes, Your Honor; however,
11 with respect to that request, the purpose
12 of the tapes is solely prior inconsistent
13 statements so that in the event that a
14 witness does not answer truthfully, then
15 it will call into question the use of the
16 tapes if they do answer or perhaps they
17 don't remember. I have no objection to
18 giving the example there as a recording
19 that's pertinent to the issue of officer
20 safety with Lee Gabriel Thompson and
21 defendant Alfred on 4/19 of this year.
22 I'd be more than happy to give them a copy
23 of it to review. If you want to give them
24 time to review it it might facilitate and
25 expedite the hearing, because I intend to
26 call Major Alfred.

27 **BY THE COURT:**

28 So that's the only one that you have
29 that regards officer safety --
30 (interrupted)

31 **BY MR. SPRING:**

32 Well, I have other tapes, Your Honor,

1 but they -- (interrupted)

2 BY THE COURT:

3 Pertain to the other issues?

4 BY MR. SPRING:

5 For purposes of the direct allegation
6 that goes directly to the heart of the
7 matter -- (interrupted)

8 BY THE COURT:

9 Do y'all have the ability to listen?
10 What is it, on a CD?

11 BY MR. SPRING:

12 Yes, Your Honor.

13 BY THE COURT:

14 Do y'all have -- (interrupted)

15 BY MR. CORRY:

16 We can find it. We'll get the
17 ability to listen to it, Judge.

18 BY THE COURT:

19 I think it would be pertinent for me
20 to take a little recess and let you do
21 that, hear that prior to. Maybe just ten
22 (10) or fifteen (15) minutes. I don't
23 know how long the conversation is, but
24 I'll let you review that first before any
25 witnesses testify.

26 BY MR. CORRY:

27 And, Judge, are you ordering
28 production of all those tapes?

29 BY THE COURT:

30 No, I'm ordering the ones pertinent
31 for today's testimony. Regular discovery
32 will apply to everything else.

1 BY MR. CORRY:

2 All right.

3 BREAK - 9:43 A.M.

4 RESUMED - 10:16 A.M.

5 BY THE COURT:

6 All right, we can go back on the
7 record in the civil matter of Marceaux
8 versus Lafayette Consolidated Government.

9 You had an opportunity to review --
10 (interrupted)

11 BY MR. CORRY:

12 I have, Judge, and we would ask that
13 the tape be authenticated by the person
14 that made the tape. And if it can be
15 authenticated we have no objection to Your
16 Honor listening to the entire tape.

17 BY MR. SPRING:

18 That's fine, Your Honor. For the
19 limited purpose of authentication we would
20 like to call Officer Gabriel Thompson to
21 the stand.

22 BY THE COURT:

23 Okay.

24 WHEREUPON,

25 OFFICER GABRIEL THOMPSON,

26 was called upon as a witness, and after having been
27 first duly sworn, was examined and testified as
28 follows:

29 DIRECT EXAMINATION BY MR. SPRING:

30 Q. Would you state your name and business address
31 for the Court, please?

32 BY THE WITNESS:

1 A. Gabriel Thompson, and my business address is
2 900 East University Avenue, Lafayette, Louisiana
3 with the Lafayette Police Department.

4 Q. And what is your occupation?

5 A. I am a lieutenant in the patrol division.

6 Q. And how long have you been with the Police
7 Department?

8 A. Twenty-two (22) years.

9 Q. I'd like to direct your attention to April 19th
10 of this year. Did you have occasion to conduct a
11 discussion with Major George Jackie Alfred?

12 A. Yes, sir.

13 Q. Can you tell me what time of the day that was,
14 morning or afternoon?

15 A. It was in the morning.

16 Q. And during that conversation did you record
17 that conversation?

18 A. Yes, sir, I did.

19 Q. Did you use a device -- What device did you
20 use?

21 A. A digital recorder.

22 Q. Can you be more specific?

23 A. It's a black digital recorder, just a basic
24 digital -- (interrupted)

25 Q. A Memo-pen?

26 A. Yes, sir, Memo-pen.

27 Q. And is that device capable of recording both
28 sides of the conversation?

29 A. Yes, sir, it is.

30 Q. And on that date did you record the entirety
31 of the conversation?

32 A. Yes, sir.

1 Q. So when you started the tape recording until
2 the termination of the conversation did you stop it
3 in any way?

4 A. Yes, sir, I did.

5 Q. No, during the conversation?

6 A. Oh, during the conversation; no, sir.

7 Q. From the beginning to the end did you stop the
8 recorder at any time?

9 A. No, sir.

10 Q. So the recording that was made is the entirety
11 of the conversation?

12 A. That is correct.

13 Q. Now, with respect to the CD that's been
14 produced, has that conversation been altered,
15 edited or in anyway enhanced or any modification of
16 any kind -- (interrupted)

17 BY MR. CORRY:

18 Judge, I would just enter an
19 objection. I'm not sure how he can answer
20 that question if it hadn't been played. I
21 think the entirety of the conversation has
22 to be played for him to authenticate it.

23 BY THE COURT:

24 Well, I'll let you lay a little more
25 foundation. I don't know who made this
26 CD. I know he made the recording on the
27 pen, but how did it get transferred and so
28 forth.

29 BY MR. CORRY:

30 Okay.

31 BY MR. SPRING - CONTINUED:

32 Q. The copy that's on there, is the copy complete

1 and the entirety of the conversation; is that
2 correct?

3 **BY THE WITNESS:**

4 A. Yes, sir.

5 Q. And you've listened to this?

6 A. Yes, sir, I have.

7 Q. Is this the entirety of the conversation --
8 (interrupted)

9 A. Yes, sir.

10 Q. -- that you had with Major Alfred on April 19th
11 of 2012?

12 A. Yes, sir.

13 **BY THE COURT:**

14 Do you withdraw your objection?

15 **BY MR. CORRY:**

16 No, Judge.

17 **BY THE COURT:**

18 Overruled.

19 **BY MR. SPRING:**

20 Do you want me to play the tape, Your
21 Honor?

22 **BY THE COURT:**

23 Do y'all have a means of playing it
24 in -- (interrupted)

25 **BY MR. SPRING:**

26 If there's no objection I'd like to
27 offer, introduce and file into the record
28 -- (interrupted)

29 **BY MR. CORRY:**

30 Judge, I'd like an opportunity to
31 question him.

32 **BY THE COURT:**

1 Yeah, go ahead.

2 **THE WITNESS WAS TENDERED.**

3 **CROSS EXAMINATION BY MR. CORRY:**

4 Q. Officer Thompson, did Major Alfred know that
5 you were recording his conversation?

6 **BY THE WITNESS:**

7 A. No, sir, he did not.

8 Q. Is it a practice of your's to record
9 conversations with Major Alfred?

10 A. No, sir.

11 Q. What was the purpose of recording this
12 conversation with Major Alfred?

13 A. On that particular morning, sir, there had
14 been several issues going on at the Police
15 Department, and just to protect myself in having
16 the conversation I opted to record that
17 conversation.

18 Q. And he didn't know?

19 A. No, sir, he did not.

20 Q. Who else in the chain of command knew that you
21 were recording Major Alfred?

22 A. Noone, sir.

23 Q. Was anybody else present?

24 A. No, sir.

25 Q. How did the conversation get from your
26 microphone or from your dictation microphone - you
27 said a Memo-pen. How did it get from that device
28 to this CD and Stephen?

29 **BY MR. CORRY:**

30 You were holding up a CD; is this the
31 only copy or is there a separate copy.

32 **BY MR. SPRING:**

1 Well, that's an identical copy of
2 this that I have.

3 BY MR. CORRY - CONTINUED:

4 Q. How did it get to the CD?

5 BY THE WITNESS:

6 A. I don't know, sir, because it's not my pen.

7 Q. Okay, so it wasn't your recording device?

8 A. That's correct.

9 Q. Whose recording device was it?

10 A. Officer Scott Pousson.

11 Q. So Officer Scott Pousson. Is Officer Scott
12 Pousson within your chain?

13 A. Yes, sir, he is.

14 Q. What is your rank?

15 A. Lieutenant.

16 Q. And what is Officer Pousson's?

17 A. Corporal.

18 Q. Corporal. And Officer Pousson is a member of
19 the Lafayette Fire and Police Civil Service Board?

20 A. Yes, sir, he is.

21 Q. Did Officer Pousson request that you record
22 Major Alfred?

23 A. No, sir.

24 Q. Who requested that you record him?

25 A. Noone did, sir.

26 Q. Why did you use Officer Pousson's Memo-pen?

27 A. Because I don't have a digital recorder.

28 Q. And how did you get that Memo-pen?

29 A. I got it from Officer Pousson.

30 Q. You asked him for it?

31 A. Yes, sir.

32 Q. Did you tell him the purpose that you were

1 using it?

2 A. No, sir, I did not.

3 Q. Let me go back to my original question. After
4 you finished the recording on April 19th, 2012 where
5 you didn't inform your Major that you were
6 recording this conversation, what did you do with
7 the Memo-pen?

8 A. I returned it to Officer Pousson.

9 Q. And what did he do with it?

10 A. That, you would have to ask him, sir. I don't
11 know.

12 Q. Okay. So you don't have any idea that what's
13 on this tape is something that you recorded or
14 something that he recorded?

15 A. No, sir, I had the opportunity to review the
16 disc.

17 BY MR. CORRY:

18 Judge, I think the Court needs to
19 hear the entire disc before it can make a
20 determination.

21 BY THE COURT:

22 I agree.

23 BY MR. CORRY:

24 Okay.

25 BY THE COURT:

26 Do y'all have a method of playing it?

27 You can go ahead and step down now.

28 You can step down and we'll call you back
29 up again.

30 BY MR. SPRING:

31 Your Honor, I can call Officer
32 Pousson to connect the dots if you want.

1 BY THE COURT:

2 No, he's reviewed the tape and I'm
3 satisfied that what he heard is what he
4 recorded.

5 BY MR. CORRY:

6 It's about seventeen (17) minutes,
7 Judge.

8 WHEREUPON, RECORDED CD WAS PLAYED IN OPEN
9 COURT AND INTRODUCED INTO THE RECORD.

10 BY THE COURT:

11 You're going to offer your copy into
12 the record?

13 BY MR. SPRING:

14 Yes, sir.

15 BY MR. CORRY:

16 No objection.

17 BY THE COURT:

18 Let it be admitted.

19 CROSS EXAMINATION BY MR. CORRY - CONTINUED:

20 Q. Officer Thompson, did you read Major Alfred's
21 Police Officers Bill of Rights before you recorded
22 it?

23 BY THE WITNESS:

24 A. No, sir, I did not.

25 Q. Was that the conversation?

26 A. Yes, sir.

27 Q. In it's entirety?

28 A. Yes, sir.

29 Q. Is that the way it was on the recorder when
30 you gave it to Officer Pousson?

31 A. Yes, sir.

32 BY MR. CORRY:

1 I don't have any further questions.

2 Judge, I would like an opportunity to
3 question Officer Pousson as to how it got
4 from the recorder to the disc.

5 **BY THE COURT:**

6 Sure. Mr. Spring, do you have any
7 further questions?

8 **BY MR. SPRING:**

9 Not at this time with respect to
10 authentication of the tape, Your Honor.

11 **THE WITNESS WAS EXCUSED.**

12 **BY THE COURT:**

13 Okay, call your next witness.

14 WHEREUPON,

15 **OFFICER SCOTT POUSSON,**

16 was called upon as a witness, and after having been
17 first duly sworn, was examined and testified as
18 follows:

19 **DIRECT EXAMINATION BY MR. SPRING:**

20 Q. Officer Pousson, can you state your full name
21 and business address, please?

22 **BY THE WITNESS:**

23 A. My name is Officer Scott Pousson, 900 East
24 University Avenue, Lafayette, Louisiana.

25 Q. And you're a police officer?

26 A. Yes, sir, I am.

27 Q. How long have you been a police officer?

28 A. For fourteen (14) years.

29 Q. And you've heard the testimony of Gabe
30 Thompson relative to borrowing a Memo-pen from you?

31 A. Yes, sir.

32 Q. Can you describe the pen to us, please?

1 A. (Witness shows pen to Court and counsel.)
2 Q. And that's a digital recorder?
3 A. Yes, sir.
4 Q. And you've heard his testimony regarding the
5 conversations now reduced and offered into evidence
6 on a CD?
7 A. Yes, sir.
8 Q. Did you have occasion to receive that pen from
9 Officer Thompson?
10 A. Yes, sir.
11 Q. And when you received that pen into your
12 custody what did you do?
13 A. I burned it to a disc and held it for safe
14 keeping.
15 Q. And you've heard the tape recording and you
16 reviewed that tape recording; is that correct?
17 A. Yes, sir.
18 Q. And you heard the tape recording in Court
19 today being played?
20 A. Yes, sir.
21 Q. And that is the identical copy of the entirety
22 of the conversation which was provided to you by
23 Officer Thompson; is that correct?
24 A. Yes, sir.

25 BY MR. SPRING:

26 I tender the witness, Your Honor.

27 BY THE COURT:

28 Okay.

29 THE WITNESS WAS TENDERED.

30 CROSS EXAMINATION BY MR. CORRY:

31 Q. Officer Pousson, how long have you been with
32 the Lafayette Police Department?

1 BY THE WITNESS:

2 A. Ten (10) years.

3 Q. How many conversations prior to this one did
4 you allow your pen to be used to record officers?

5 A. I've been recording conversations at the
6 Lafayette Police Department for probably since
7 2006.

8 Q. Is your pen always the recording device that's
9 used by your fellow officers?

10 BY MR. SPRING:

11 Your Honor, I'm going to object to
12 the relevance. I don't know what the
13 relevance of 2006 is -- (interrupted)

14 BY THE COURT:

15 Overruled. I'll let a few questions
16 in as long as we don't get off the
17 subject.

18 BY MR. CORRY - CONTINUED:

19 Q. Is your pen always the one, your recording
20 device, always the one used by your fellow officers
21 when they record conversations with other officers
22 when those other officers don't know they're being
23 recorded?

24 BY THE WITNESS:

25 A. I'm not sure what other recording devices
26 other officers have utilized to record other
27 officers.

28 Q. Is this the only time that you've allowed your
29 recording device to be used by another officer?

30 A. I'm not sure. I'd have to go back and check
31 the files.

32 Q. What files?

1 A. The audio files I keep.
2 Q. The audio files you keep. And where are those
3 audio files kept?
4 A. They're stored on a portable hard drive.
5 Q. Of a Lafayette Consolidated Government
6 computer?
7 A. No, sir.
8 Q. Your personal computer?
9 A. No, sir.
10 Q. A Lafayette Police Department computer?
11 A. No, sir.
12 Q. Whose computer?
13 A. It's on a portable external hard drive.
14 Q. And who owns that?
15 A. I do.
16 Q. Why did Officer Gabe Thompson use your pen to
17 record Major Alfred?

18 BY MR. SPRING:

19 I'm going to object as asked and
20 answered. He said he didn't have one and
21 he borrowed it from him, Judge.

22 BY THE COURT:

23 Overruled.

24 BY MR. CORRY - CONTINUED:

25 Q. Why did he use your pen?

26 BY THE WITNESS:

27 A. Apparently he didn't have one at the time.

28 Q. Did you ask him to record Major Alfred?

29 A. No, sir.

30 Q. You did not?

31 A. No, sir.

32 Q. Did you hear Officer Thompson testify he

1 didn't know what you were going to do with the
2 recording after he recorded it?

3 A. I think so; yes, sir.

4 Q. Why did you burn it to a CD?

5 A. Because it was something that needed to be
6 kept.

7 Q. For what?

8 A. Apparently it's become a hot topic right now.

9 Q. I want to know why you kept it.

10 A. Because it was in my possession.

11 Q. So you allow your recording device to be used
12 by a fellow officer who doesn't know why he's
13 recording it, you take control of that device and
14 then you download it to a CD?

15 BY MR. SPRING:

16 I'm going to object to the form of
17 the question. He said he didn't know why
18 he was recording it. Officer Thompson
19 testified he was recording it for his own
20 protection, as I recall.

21 BY THE COURT:

22 Sustained.

23 BY MR. CORRY - CONTINUED:

24 Q. Did you take the recording on that pen and
25 download it to your hard drive or to a disc?

26 BY THE WITNESS:

27 A. I'm not understanding the question.

28 Q. Did you take the recording that was on that
29 pen by Officer Thompson of Major Alfred and
30 download to a CD or to your hard drive or some
31 other device?

32 A. It's on an external hard drive and disc.

1 Q. And what did you do with that disc?

2 A. That disc is in Mr. Spring's possession right
3 now.

4 Q. When did you give that to Mr. Spring, before
5 or after this lawsuit was filed?

6 A. I don't recall.

7 Q. You don't recall. Did you give a copy of that
8 recording to anyone else other than officer Spring
9 - I mean, excuse me, attorney Spring?

10 A. I don't believe so.

11 Q. Huh?

12 A. I don't believe so.

13 Q. Are you sure?

14 A. No, sir, I'm not sure. That's why I said I
15 don't believe so.

16 Q. Possibly you gave it to other people?

17 A. Yes, sir, it is.

18 Q. Who would the other possibilities be?

19 A. I'm not sure.

20 Q. Let me ask you this: you're a Lafayette police
21 officer, correct?

22 A. Yes, sir.

23 Q. You're a resource officer?

24 A. Yes, sir.

25 Q. And you also serve as one (1) of the five (5)
26 members of the Lafayette Police and Fire Civil
27 Service Board?

28 A. Yes, sir.

29 Q. How long have you been in that role?

30 A. Since August of last year.

31 Q. And it's your job to be an unbiased judge on
32 that board, correct?

1 A. Yes, sir.

2 Q. Was there anything else on that recording
3 device other than the conversation between Gabe
4 Thompson and Major Jackie Alfred when you received
5 it back from Officer Thompson?

6 A. I'm unsure. I'm unsure.

7 Q. Did you give him any recordings on that device
8 when you gave him the pen to use to record Major
9 Alfred?

10 A. Did I give him any recordings?

11 Q. Was there any recording on the device?

12 A. I'm not sure.

13 Q. Did you read Major Alfred his Police Officer
14 Bill of Rights before that recording was made?

15 A. No, sir.

16 BY MR. CORRY:

17 That's all I have, Judge.

18 BY THE COURT:

19 No redirect?

20 BY MR. SPRING:

21 Just a couple of questions.

22 THE WITNESS WAS TENDERED.

23 REDIRECT EXAMINATION BY MR. SPRING:

24 Q. You said that you've been a member of the
25 Civil Service Board; is that correct?

26 BY THE WITNESS:

27 A. Yes, sir.

28 Q. It's my understanding there are cases on
29 appeal that have taken - that are still pending a
30 year-and-a-half after being filed; is that correct?

31 BY MR. CORRY:

32 Object to relevance, Judge.

1 BY THE WITNESS:

2 A. Yes, sir.

3 BY THE COURT:

4 Sustained.

5 BY MR. SPRING - CONTINUED:

6 Q. Are you a member of the Internal Affairs
7 section?

8 BY THE WITNESS:

9 A. No, sir, I'm not.

10 Q. You're not authorized to conduct
11 investigations on behalf of the Lafayette Police
12 Department via Internal Affairs are you?

13 A. No, sir, I'm not.

14 BY MR. SPRING:

15 I have no further questions.

16 BY THE COURT:

17 All right, you can step down. Thank
18 you.

19 THE WITNESS WAS EXCUSED.

20 BY MR. CORRY:

21 Judge, at this time Lafayette
22 Consolidated Government Chief
23 Administrative Officer, Dee Stanley,
24 Police Chief James Craft and Major Jackie
25 Alfred would move to have this matter,
26 once again, dismissed with prejudice. If
27 that's their smoking gun and that's the
28 threat that they claim, Officer Thompson
29 laughed no less than twenty-two (22) times
30 on that tape. There was nothing on that
31 tape that was threatening. There was
32 nothing on that tape that would follow the

1 statute of Code of Civil Procedure Article
2 3604 and 3603 that says there must be
3 specific facts showing immediate and
4 irreparable injury, loss or damage. This
5 is an investigation -- (interrupted)

6 **BY THE COURT:**

7 I understand your point.

8 **BY MR. SPRING:**

9 Your Honor, I haven't finished
10 presenting my case.

11 **BY THE COURT:**

12 That was my point.

13 What other witnesses do you intend to
14 call?

15 **BY MR. SPRING:**

16 I'd like to call Major Alfred to the
17 stand and I'd also like to call officers
18 who heard the threat and how they took the
19 threat. Certainly that's relevant in
20 determination -- (interrupted)

21 **BY THE COURT:**

22 And when you say "threat", the threat
23 that you allege was made on the disc?

24 **BY MR. SPRING:**

25 This stuff has gotten personal, and
26 when it becomes personal a lot of stuff
27 can happen; a lot of animosity, even
28 fighting and shooting. (Interrupted)

29 **BY MR. CORRY:**

30 Judge -- (interrupted)

31 **BY MR. SPRING:**

32 That's coming from a Major of the

1 Department who is supposed to set an
2 example and he's out there making - it
3 sounds like a threat to me when he says
4 he's not playing any games. So how it's
5 interpreted by these officers --
6 (interrupted)

7 **BY THE COURT:**

8 Well, I heard the tape in it's
9 entirety. Is there anything in addition
10 to what I heard that you need to present?

11 **BY MR. SPRING:**

12 I'd like to put Major Alfred on the
13 stand so he can testify with respect to
14 mandatory obligations from the policies
15 and procedure manual from the City of
16 Lafayette that requires no harassment, no
17 retaliation -- (interrupted)

18 **BY THE COURT:**

19 I don't think it's necessary.

20 **BY MR. CORRY:**

21 That doesn't go to the irreparable
22 injury.

23 **BY THE COURT:**

24 No, I don't think it's --
25 (interrupted)

26 **BY MR. CORRY:**

27 I mean, we've heard the tape.

28 **BY THE COURT:**

29 I heard the tape. Is there anything
30 outside the course and scope of that tape
31 that you intend to introduce into evidence
32 or testimony about this?

1 BY MR. SPRING:

2 That his discussion is a retaliation
3 because he bases it upon no transfer.
4 This is all relative to a complaint that
5 was made at a Civil Service Board --
6 (interrupted)

7 BY MR. CORRY:

8 Judge, I would object. That goes
9 outside -- (interrupted)

10 BY MR. SPRING:

11 Can I finish?

12 BY MR. CORRY:

13 -- the scope of what we're here for.

14 BY MR. SPRING:

15 Can I finish, please?

16 BY MR. CORRY:

17 Excuse me. I'm directing my comments
18 to the Judge.

19 BY MR. SPRING:

20 Well, you're interrupting me. I'd
21 like to at least finish -- (interrupted)

22 BY MR. CORRY:

23 Well, Judge -- (interrupted)

24 BY MR. SPRING:

25 -- what I'm saying.

26 BY THE COURT:

27 Okay, hold on. Hold on.

28 Okay, finish your statement.

29 BY MR. SPRING:

30 What's referenced in the tape is a
31 complaint that was made with the Civil
32 Service Board who is empowered to

1 investigate. Obviously, Major Alfred
2 takes that to heart, as he stated, because
3 it was a public forum. Every officer has
4 a right to make a complaint with the Civil
5 Service Board on retaliation. And with
6 respect to that, Chief Craft issued - this
7 was from Kane Marceaux who was the one
8 that made the complaint the day before.
9 Chief Craft sent him an email indicating
10 he had violated policy. Not Kane Marceaux
11 but Chief Craft. So it certainly seems to
12 me it's relevant in terms of how they take
13 a threat. And this is a man that's in
14 charge of the department making those
15 kinds of statements, Judge. It's how they
16 perceive it.

17 **BY THE COURT:**

18 So, at this point you have no
19 additional evidence of any other threats
20 other than what you allege was made on
21 this CD?

22 **BY MR. SPRING:**

23 With respect to the TRO, yes. But we
24 also have evidence with respect to
25 reprisals and retaliation. We filed
26 supplemental -- (interrupted)

27 **BY THE COURT:**

28 I understand that. That's part of
29 the ongoing lawsuit. But as far as for
30 the TRO, I am going to grant your Motion
31 to Dismiss the TRO and everything else
32 will follow, first of all, through Civil

1 Service and then through appeals and then
2 through this suit.

3 BY MR. CORRY:

4 At plaintiff's cost?

5 BY THE COURT:

6 At plaintiff's cost.

7 BY MR. CORRY:

8 Thank you, Judge. I'll prepare a
9 judgement and circulate it to Mr. Spring.

10 BY THE COURT:

11 And it just may be said for the
12 record that I didn't find anything here
13 that would be considered a threat to
14 anybody in the department.

15 BY MR. CORRY:

16 Thank you, Judge.

17 BY MR. SPRING:

18 Your Honor, we would respectfully
19 object for the record. Thank you.

20 BY THE COURT:

21 I understand.

22
23 THE PROCEEDINGS IN THIS MATTER WERE CONCLUDED.
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C E R T I F I C A T E

STATE OF LOUISIANA
PARISH OF LAFAYETTE

I, Kathleen D. Mathews, C.C.R., do hereby
certify that I am a duly appointed, qualified, and
acting Official Court Reporter for the Fifteenth
Judicial District Court in and for the Parishes of
Acadia, Lafayette, Vermilion, the State of
Louisiana.

I further certify that the foregoing thirty
(30) pages is a true and correct transcript of the
proceedings entered into the record, held in the
captioned cause and that said transcript is a true
and correct transcription of my stenographic notes
then and there taken.



Kathleen D Mathews

KATHLEEN D. MATHEWS, C.C.R.

Official Court Reporter